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compared to 2 in 'Catherina', 6 in 'Babygold 5' and 4 in 'Babygold 7'. The petiole length is rated as medium-long, longer than the comparative varieties. The nectaries are present on the petiole. The shape of nectaries on the petiole is kidney-shaped. The number of nectaries on the petiole is normally 2 as they are for 'Babygold 5' and 'Babygold 7' but there were more than 2 on the petioles of 'Catherina'.

REMARKS

On behalf of Applicant, the undersigned would like to thank Examiner McCormick for the assistance she provided during the telephonic interview on February 27, 2003. Her explanation of what is required now regarding the Latin and varietal names was most helpful. The possibility of petitioning for a suspension was discussed, but it appears that the 6 months available by such suspension would not provide enough time to obtain the requisite information.

The disclosure stands objected to under 37 CFR 1.163(a) and 35 USC 112 first paragraph because the specification presents less than a full, complete botanical description of the plants and the characteristics which define same per se and which distinguish the plant from related known cultivar and antecedent.

Claim 1 stands rejected to under 35 USC 112, first and second paragraph as not being supported by a clear and complete botanical description of the plant for reasons set forth in the Objection to the Disclosure Section above, and under 35 USC 112, first paragraph for the reasons advanced in the objections to the oaths/declarations and objection to the drawings. The Examiner refers to the oath in the objection, but points out no defect in it.

OBJECTION TO THE DISCLOSURE

The disclosure was objected to under 37 CFR 1.163 and 35 USC 113, second paragraph for reasons A-X. As explained to Examiner McCormick, the information required to respond to objections C and E-X will not be available until after the

claimed peach is harvested later this year and that it will be provided as soon as it is all collected.

Objection A - The varietal name has been added to the first line of the application, so this objection is no longer applicable.


Objection B - As suggested by Examiner McCormick, the patent status of 'New Jersey Cling', 'Suncling', 'Babygold 5', 'Babygold 7' and 'Catherina', were searched by name at www.uspto.gov. None of these varieties were listed on the website as being patented, so the specification has been accordingly amended.

Objection D - The specification [0004] and [0005] have been amended by substituting ---FIG.--- for "Figure", therefore this objection is no longer applicable.

REJECTION OF THE CLAIM UNDER 35 USC 112
FIRST AND SECOND PARAGRAPH

The comments made above regarding the objection to the disclosure are applied to this rejection.

Respectfully submitted,


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Encl: Marked-up paragraphs [0001], [0002],
[0004], [0005] and [0006]
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Marked-up paragraphs [0001] and [0002]

[0001] The present invention relates to a non-melting fleshed clingstone processing peach variety [*Prunus persica* (L.) Batsch], varietal name 'V75024', that is disease resistant, high quality, cold tolerant and productive.

[0002] 'V75024' originated at the Horticultural Research Institute of Ontario (now the Department of Plant Agriculture, University of Guelph) at Vineland Station, Ontario, Canada. It arose as a single selection from the seedling population of V75024 that was derived from a controlled cross of 'Suncling' ~~(patent status unknown)~~ (unpatented) and 'New Jersey Cling 81' ~~(patent status unknown)~~ (unpatented) made in 1975. The selection was made in 1981 and then was asexually propagated by budding on peach seedling rootstock in the research nursery at Vineland Station. Comparative records of performance of 'V75024' have been kept on its performance at this site since that date. The asexual propagation demonstrates that such reproduction of the characteristics of the tree are consistent and are established or transmitted through succeeding generations. The tree of this variety is self-pollinating and self fruitful.

Marked-up paragraphs [0004], [0005] and [0006]

[0004] ~~Figure~~FIG. 1 is a photographic illustration of the fruit of 'V75024' on the tree.

[0005] ~~Figure~~FIG. 2 is a photograph depicting the external and internal characteristics of the fruit of 'V75024'.

[0006] 'V75024' is a non-spur tree type of strong vigour similar to 'Catherina' ~~(patent status unknown)~~ (unpatented), 'Babygold 5' (unpatented) and 'Babygold 7' ~~(patent status~~

~~unknown~~ (unpatented). The trees are semi-horizontal being intermediate between 'Catherina' which is horizontal and 'Babygold 5' and 'Babygold 7' which are semi-erect. The leaf blade is of medium size, with a mean length (10 leaves measured) of 144.4 mm, a range of 130-160 mm, a standard deviation of 10.44 mm. The mean width (10 leaves measured) of 37.8 mm, a range of 34-47 mm, a standard deviation of 3.97 mm. These measurements are comparable to 'Catherina' but less than for either 'Babygold 5' or 'Babygold 7'. The leaf blade profile is flat comparable to 'Catherina' but dissimilar to the upfolded leaves of 'Babygold 5' and 'Babygold 7'. The leaf blade tip is recurved downwards, the same as comparative varieties. The angle at the base of the leaf blade is acute compared to the right angle of 'Catherina' and the obtuse angle of 'Babygold 5 and Babygold 7'. The angle at the tip of the leaf blade is acute compared to the right angle of 'Babygold 7'. The anthocyanin coloration of the leaf blade observed in mid-summer is absent. On a scale of 1 (absent) and 9 (present) the serration of the leaf blade of 'V75024' is a 4 compared to 2 in 'Catherina', 6 in 'Babygold 5' and 4 in 'Babygold 7'. The petiole length is rated as medium-long, longer than the comparative varieties. The nectaries are present on the petiole. The shape of nectaries on the petiole is kidney-shaped. The number of nectaries on the petiole is normally 2 as they are for 'Babygold 5' and 'Babygold 7' but there were more than 2 on the petioles of 'Catherina'.